



California Regional Water Quality Control Board

Santa Ana Region

Winston H. Hickox
*Secretary for
Environmental
Protection*

Internet Address: <http://www.swrcb.ca.gov/rwqcb8>
3737 Main Street, Suite 500, Riverside, California 92501-3348
Phone (909) 782-4130 - FAX (909) 781-6288



Gray Davis
Governor

July 17, 2001

Mr. Robert Guthrie
Guthrie Development Company
25200 La Paz Road, Suite 210
Laguna Hills, CA 92653

ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. 01- 73 (Revised)

Dear Mr. Guthrie:

Thank you for meeting with us yesterday and providing additional information about the conditions on your Lakeview and Orangethorpe Business Center site. As agreed at our meeting today, the Administrative Civil Liability has been revised from \$21,280 down to \$15,280. Enclosed is a copy of the modified Administrative Civil Liability and also please find a copy of the modified waiver. As discussed, the submittal of a check in the amount of \$15,280 to this Regional Board office is an acceptable alternative to the original waiver conditions.

The reason for this reduction is the additional information provided during the meeting on July 16, 2001. This included, but was not limited to, the fact that one catch basin is located on a portion of the site not owned by Guthrie Development Company and a SWPPP had been prepared, and was at the site by March 22, 2001.

If you have any questions, you may contact Mark Smythe at 909-782-4998 or Michael Adackapara at 909-782-3238. All legal questions should be referred to our legal counsel, Ted Cobb, at 916-341-5171.

Sincerely,

Gerard J. Thibeault
Executive Officer

Enclosures: Complaint No. 01-73 (Revised) and
Revised Waiver Form

California Environmental Protection Agency



Recycled Paper

Mr. Robert Guthrie

July 17, 2001

cc with enclosures:

Regional Board Members

State Water Resources Control Board, Division of Water Quality - Bruce Fujimoto

State Water Resources Control Board, Office of the Chief Counsel - Ted Cobb

U. S. Environmental Protection Agency, Region 9 (WTR-7) – Tom Huetteman

Orange County Public Facilities & Resources Dept.- Chris Crompton

State Department of Fish and Game – Terry Dickerson

California Coastal Commission – Teresa Henry

US Fish and Wildlife Service – Will Miller

Orange County Coast Keeper – Garry Brown

Lawyers for Clean Water – Kim Lewand

Lawyers for Clean Water – Daniel Cooper

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION

In the matter of:)	Complaint No. 01-73 (Revised)
)	for
Guthrie Development Company)	Administrative Civil Liability
25200 La Paz Road , Suite 210)	
Laguna Hills, CA 92653)	
)	
Attn: Robert Guthrie)	

YOU ARE HEREBY GIVEN NOTICE THAT:

1. Guthrie Development Company is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board), may impose liability under Section 13385(c)(2) of the California Water Code.
2. A hearing concerning this Complaint will be held before the Board within sixty days of the date of issuance of this Complaint. The hearing in this matter will be scheduled for the Board's regular meeting on July 20, 2001 at the City Council Chambers of Corona, 815 West 6th Street, Corona, California. Guthrie Development Company or its representative will have an opportunity to appear and be heard, and to contest the allegations in this Complaint and the imposition of civil liability by the Board. An agenda for the meeting will be mailed to you not less than 10 days before the hearing date.
3. At the hearing, the Board will consider whether to affirm, reject or modify the proposed administrative civil liability or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
4. The storm water runoff from the Guthrie Development Company construction site named Lakeview and Orangethorpe Business Center, located at 1500 N. Lakeview Ave. in Anaheim, is regulated under the State's General Permit for Storm Water Runoff Associated with Construction Activities, Order No. 99-08-DWQ, NPDES No. CAS000002 (General Permit), WDID No. 8 30S313839.
5. Guthrie Development Company is alleged to have violated Provisions A.3, C.2, and C.4 of the General Permit. Guthrie Development Company failed to properly develop, implement, and keep on site, an effective Storm Water Pollution Prevention Plan (SWPPP). Guthrie Development Company allowed discharges of storm water, which caused or threatened to cause pollution, contamination, or nuisance. Guthrie Development Company failed to implement an effective combination of erosion and sediment control for the site. Monitoring and Reporting Requirements were not met, and Guthrie Development Company discharged pollutants to waters of the United

States from the construction site. Pursuant to Water Code Section 13385 (a)(2), civil liability may be imposed for the preceding violations.

6. This complaint is based on the following facts:

- a) According to the Site's Notice of Intent, grading commenced on 9/1/00 and 100% of the 7.7 acres was to be mass graded. In addition it was certified in the Notice of Intent that a SWPPP had been prepared as of 8/16/00.
- b) On March 21, 2001, Board staff conducted a routine inspection of Guthrie Development Company's construction site located 1500 N. Lakeview Avenue in Anaheim and determined that the site did not have a SWPPP. As a result, the best management practices (BMPs) implemented at the site were not adequate to eliminate/reduce the transport of sediment, waste concrete, and construction debris to the storm drain system and Atwood Channel, the receiving water. Staff contacted the site's superintendent, Greg Morrison of Dan Miller Construction, and notified him that the lack of the SWPPP and the failure to implement pollution control measures constituted violations of the General Permit.
- c) During the March 21, 2001 inspection, staff noted several on-site, unprotected catch basin inlet structures at this redevelopment project. Based on the site topography and the elevation and location of these inlet structures, it was evident that during runoff-producing rain events of the preceding rainy season, sediment-laden runoff would have entered Atwood Channel through these structures. Furthermore, staff observed waste concrete that had been disposed of directly into Atwood Channel.
- d) On March 26, 2001, Board staff conducted a follow-up inspection of the Guthrie Development Company construction site. No improvements had been made. Staff again contacted the site's Superintendent, Greg Morrison, and informed him of the violations and the need to develop and implement a SWPPP.

7. Section 13385 (a)(2) provides that any person who violates waste discharge requirements shall be civilly liable. Section 13385 (c) provides that civil liability may be administratively imposed by a regional board in an amount not to exceed ten thousand dollars (\$10,000) for each day the violation occurs. Additional liability, not to exceed \$10 per gallon, may be imposed for each gallon discharged in excess of 1,000 gallons. The flow from the site was based on 8 days of significant rainfall between the project start date of September 1, 2000 and the first inspection, on March 21, 2001. Recorded rainfall at the Orange County Public Facilities and Resources Department's station at Villa Park Dam indicated rain events in excess of 0.36 inches on January 11th, 12th, and 27th 2001 and February 12th, 13th, 14th, 26th, and 28th 2001. Based on a runoff coefficient of 40%, runoff from the site was estimated to be 800,000 gallons.
8. Pursuant to Section 13385(c), Guthrie Development Company is civilly liable for the sum of \$80,000 (\$10,000 for each of 8 days). There were 8 days of significant storm

events that would have caused runoff due to the size of the storm in combination with the soil previously being saturated. This occurred without adequate BMPs implemented to eliminate/reduce the discharge of sediment, concrete waste and debris from the site. In addition, the civil liability is \$7,990,000 (\$10 per gallon after the first 1,000 gallons for 800,000 gallons) for the violations cited in Paragraph 6, above. The total maximum assessment is \$8,070,000.

9. Regional Board staff spent a total of 4 hours investigating this incident (@\$70.00 per hour, the total cost for staff time is \$280.00). Guthrie Development Company saved approximately \$8000.00 by not developing and implementing an appropriate SWPPP, by not developing, implementing, and maintaining adequate erosion and sediment control BMPs, and by not properly training site personnel. These factors were considered in assessing the penalty indicated in Paragraph 10, below.
10. Section 13385 (e) specifies factors that the Board shall consider in establishing the amount of civil liability. After consideration of those factors, the Executive Officer proposes civil liability be imposed on Guthrie Development Company by the Board in the amount of \$15,280 for the violations cited above.

WAIVER OF HEARING

You may waive your right to a hearing. If you choose to do so, please sign the attached waiver and return it, together with a check or money order payable to the State Water Resources Control Board for the amount of civil liability proposed in Paragraph 10, above, to:

Santa Ana Regional Water Quality Control Board
3737 Main Street, Suite 500
Riverside, CA 92501-3339

If you have any questions, please contact Jeff Hageman (909) 321-4574, Mark Smythe at (909) 782-4998, or Michael Adackapara at (909) 782-3238, or contact the Regional Board's staff counsel, Ted Cobb, at (916) 341-5171.

Date

Gerard J. Thibeault
Executive Officer

In the matter of:)	Complaint No. 01-73 (Revised)
)	for
Guthrie Development Company)	Administrative Civil Liability
25200 La Paz Road , Suite 210)	
Laguna Hills, CA 92653)	
)	
Attn: Robert Guthrie)	

WAIVER OF HEARING

I agree to waive Guthrie Development Company's right to a hearing before the Santa Ana Regional Water Quality Control Board with regard to the violations alleged in Complaint No. 01-73 (Revised). I have enclosed a check, made payable to the State Water Resources Control Board, in the amount of \$15,280. I understand that I am giving up Guthrie Development Company's right to be heard and to argue against allegations made by the Executive Officer in this complaint, and against the imposition of, and the amount of, the liability proposed.

Date

for Guthrie Development Company